



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Leverett Saltonstall Building
100 Cambridge Street, Boston 02204

May 6, 1985

Your clients are new Massachusetts residents who will be obligated to make estimated Massachusetts income tax payments. They plan to base their declarations on their previous year's income as shown on their respective federal returns but "adjusted for Massachusetts differences." We assume that your clients did not file Massachusetts returns for their respective previous taxable years.

You inquire whether under these circumstances your clients may avail themselves of the exceptions from imposition of the addition to tax for underpayment of estimated tax, set forth in G.L. c. 62B, §18(b)(1)(i) and (ii).

The exceptions state as follows:

(b) [Exception.] Notwithstanding the provisions of paragraph (a), the addition to the tax with respect to any under payment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser- (1) the amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the lesser-

(i) the tax shown on the return of the taxpayer for the preceding taxable year, if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of twelve months, or

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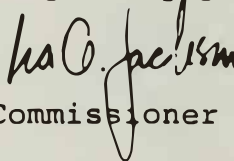
(ii). an amount equal to the tax computed, at the rates applicable to the taxable year, on the basis of the taxpayer's status with respect to his personal exemption and exemptions for spouse and dependents under section five B of chapter sixty-two for the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year....

The above quoted statute does not authorize the use of the prior year's federal return for purposes of determining the applicability of the exceptions. In (i), "the return of the taxpayer for the preceding taxable year" means the taxpayer's Massachusetts return for the preceding taxable year. Subparagraph (ii) implies that a Massachusetts return was filed for the preceding taxable year.

Thus, since your clients have not filed Massachusetts returns for the preceding taxable year, the exceptions under G.L. c. 62B, §18(b)(1)(i) and (ii) do not apply to them.

However, your clients will be able to avoid the addition to tax for underpayment of estimated tax if they pay 80 percent of the tax due for the year in their estimated income tax payments. See G.L. c. 62B, § 18(a). The requirement that a taxpayer pay 80 percent of the tax due applies to each estimated income tax installment. See G.L. c. 62B, § 18(a). The operation of this rule is illustrated on Form M-2210, a copy of which is enclosed.

Very truly yours,



Commissioner of Revenue.

IAJ:HW:loc

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